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ABSTRACT

This guide is designed to provide background material and teaching strategies for the study of the Supreme Court and the New Deal Era. There are suggested activities, discussion questions, a list of suggested readings, vocabulary, a list of key players of the era, and a list of components and key events tied to The New York Times from that time period. (EH)

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The Supreme Court and the New Deal, 1935-1936: Educator's Guide. Live from the Past Series.

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Educator's GUIDE

The New York Times Live FROM THE PAST

The Supreme Court and the New Deal, 1935-1936

In 1932, Franklin D. Roosevelt accepted the Democratic party nomination for the presidency with a bold promise of "a new deal for the American people." After becoming President, Roosevelt intended to lift the country out of its economic depression through a program that would change old ways of governing. It was called the New Deal. Roosevelt asked for "broad executive power to wage war against the emergency, as great as the power that would be given to me if we were in fact invaded by a foreign foe." During the first 100 days, the Roosevelt administration submitted fifteen bills to Congress and received fifteen pieces of legislation in return to fight the enemy.

The New Deal bills signed into law by Roosevelt were designed to stabilize the banking industry, to bring aid to those hardest hit by the Depression and to advance economic planning and cooperation between government, business and labor. The centerpiece of the President's reforms was the National Industrial Recovery Act (NIRA) of 1933, which was administered by the National Recovery Administration (NRA). Under this law, Congress gave the President authority to approve standards or regulations for production, and prices and wages of various businesses and industries. These regulations had the force of law. The NIRA also guaranteed to workers the right to bargain collectively, which strengthened the power of labor unions in their negotiations with employers. The President's bold initiatives, although welcomed by many, were strongly opposed by conservatives and many business-men. Initially eager to support the NRA, businesses soon found the codes impossible to enforce and too cumbersome to follow. Many businesses soon reverted to the old methods of guaranteeing their profit margin by laying people off, closing factories and raising prices. Hope for a significant recovery waned as businesses experienced a brief improvement in industrial output in early 1933, only to see it collapse once again in the fall.

Opposition to the New Deal Legislation was also represented by the court cases making their way to the Supreme Court. The conservative majority on the U.S. Supreme Court began to thwart the President's plans by declaring unconstitutional key New Deal programs, such as the National Industrial Recovery Act (NIRA), the Agricultural Adjustment Act (AAA) and the Guffey Coal Act. The Court's opposition to the New Deal was centered on four justices: Pierce Butler, James McReynolds, George Sutherland and Willis Van Devanter. Either Chief Justice Charles Evans Hughes or Owen Roberts usually voted with these four justices to provide a dependable 5-4 majority in Court decisions against New Deal programs. In the *Schechter Poultry Corp. v. United States* case, the "strict constructionists" on the Court did not believe Congress had the right to delegate legislative power to the president. In their opinion the Constitution clearly separated the powers of the executive and legislative branches. In the *Carter v. Carter Coal Company* case, the Court conservatives felt that the price-fixing in the Guffey Coal Act infringed on a state's right to regulate intrastate commerce. The justices in favor of the New Deal programs had a "broad constructionist" view and saw the need to create legislation which met the immediate needs of the country and remained in the flexible boundaries created by the Constitution.

The President appealed to the general public for support for his embattled New Deal. Even though recovery was stalled, the voters responded with overwhelming support for Roosevelt and his Democratic party in the presidential election of 1936. The President won a landslide victory and the Congress was dominated by members of the Democratic Party. President Roosevelt interpreted this great electoral victory as a mandate for the New Deal and an outcry against the Supreme Court decisions. Roosevelt was determined to boldly push ahead to fulfillment of the New Deal and achieve, in his words, "a new era of change and movement."

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CREDIT: ***John J. Patrick***, Professor of Education and Director of Social Studies Development Center of Indiana University.

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Suggested Activities

✻ *Use the article "Nine Philosophers of Our High Court," by R.L. Duffus, to introduce the students to the backgrounds, personalities and constitutional philosophies of the nine Supreme Court justices. Also, have them evaluate the analysis that the author presents. The author suggests which justices he thinks will be "progressive" or "conservative" on New Deal cases. Then direct students' attention to the summary article "Court's New Deal Score." How accurate were Duffus's predictions about the Court's rulings?*

✻ *After reading some of the letters and op-ed pieces in the unit, ask students to write letters to the editor of* The New York Times *to support or oppose the Supreme Court's decision in the* Schechter Poultry *case or the Guffey Coal Law case.*

✻ *Have students analyze the Supreme Court decisions in the* Schechter Poultry Corporation *case and the Guffey Coal Law case by writing reports that (1) identify the constitutional issues in each case, (2) specify how the Court decided each case, (3) explain the Court's reasoning for its decision in each case and (4) discuss the significance in U.S. history of each decision.*

✻ *Use the following quotes from the* Schechter *case majority decision to lead a discussion about strict constructionist interpretations of the Constitution:*

> *"Extraordinary conditions may call for extraordinary remedies. But the argument necessarily stops short of an attempt to justify action which lies outside of the sphere of constitutional authority."*
>
> *"If the commerce clause were construed to reach all enterprises and transactions which could be said to have an indirect effect on interstate commerce, the Federal authority would embrace practically all the activities of the people and the authority of the State over its domestic concerns would exist only by sufferance of the Federal Government."*
>
> *"If the Federal Government may determine the wages and hours of employees in internal commerce of a State . . . it would seem that a similar control might be exerted over other elements of cost . . . such as the number of employees, rents, advertising, methods of doing business, etc."*

✻ *Have students conduct research and write a report on the presidential election of 1936, discussing the key issues and positions of the rival parties.*

✻ *Ask students to write position papers explaining why they would have voted for or against President Roosevelt in the election of 1936.*

Using the Components

Educator's Guide:

✻ Use the guide as a time-saving reference before a lecture or when preparing a lesson plan.

✻ Copy portions of the guide to hand out to students. If there is not enough time to cover the unit in detail, the introduction, vocabulary, list of players, or discussion questions can help students to grasp the concepts quickly.

Poster:

✻ Display the poster several days before beginning the unit to stimulate student inquiries and anticipation for the subject topic.

✻ Use the poster on the first day of the unit to foster an opening discussion to prime students for in-depth study or discussion later on in the unit.

✻ Punctuate an event's importance by using the poster only on the day the front page appeared chronologically in the order of events.

Video:

✻ Provide an overview of the events by showing the video at the beginning of the unit.

✻ Summarize the issues studied by showing the video at the end of the unit.

✻ Stimulate topics for independent research by displaying the video, and then direct the students to search among a variety of sources to narrow their own related topics.

Article Sheets:

✻ Select, copy and hand out only the articles best suited to fill the gaps in the textbook information or to help highlight the day's lecture topic.

✻ Copy all the article sheets into one packet and provide to the students as a research resource to answer questions, develop essays or to prepare presentations.

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Discussion Questions

1. What national leaders or groups tended to favor or oppose President Roosevelt's New Deal programs? What were the main reasons of the supporters or opponents of the New Deal?
2. What members of the U.S. Supreme Court tended to favor or oppose President Roosevelt's New Deal program in cases before the Court? What were the main reasons of the supporters or opponents of the New Deal?
3. What was the Supreme Court's decision in the *Schechter Poultry Corporation* case? Did the decision favor or oppose a New Deal program? Why?
4. What was the Supreme Court's decision in the Guffey Coal Law case? Did the decision favor or oppose a New Deal program?
5. What were various public responses to the Court's decisions on New Deal programs? Who supported or opposed them? Why?
6. What are your judgments or evaluations of the Supreme Court's decisions on New Deal programs? Why?
7. Was President Roosevelt's victory in the election of 1936 a public endorsement of the New Deal? How did the President and the press interpret this victory?
8. What groups tended to support President Roosevelt in the election of 1936? Why?
9. Why, in your opinion, did Roosevelt win a landslide victory in 1936?
10. What plans for his second term did President Roosevelt make following his big election victory of 1936?

Suggested Reading

FDR: The New Deal Years,

by Kenneth S. Davis. New York: Random House, 1986.

Quarrels That Have Shaped the Constitution,

by John A. Garraty, ed. New York: Harper & Row, 1987, pages 233-252.

Franklin D. Roosevelt and the New Deal,

by William E. Leuchtenberg. New York: Harper & Row, 1963.

The Making of the New Deal: The Insiders Speak,

edited by Katie Louchheim. Cambridge, Mass. and London: Harvard University Press, 1983.

The Constitution in the Twentieth Century,

by Paul L. Murphy. Washington, D.C.: American Historical Association, 1986, pages 11-24.

The Young Oxford Companion to the Supreme Court of the United States,

by John J. Patrick. New York: Oxford University Press, 1994, pp. 272-273.

The Age of Roosevelt: The Politics Of Upheaval,

by Arthur M. Schlesinger, Jr. Boston: Houghton Mifflin, 1960.

The New York Times Live FROM THE PAST

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List of Players

Joseph Guffey *Senator (D-Pa.) who wrote the Guffey Coal Law, at issue in the U.S. Supreme Court case,* Carter v. Carter Coal Company.

Joseph Heller *Attorney for the Schechter family in* Schechter Poultry Corp. v. United States.

Charles Evans Hughes *Chief Justice of the United States, who often opposed New Deal legislation and occasionally supported it in cases before the Court.*

Alfred M. Landon *Republican Party candidate for U.S. President in 1936.*

Donald R. Richberg *Acting Chairman of the NRA.*

Franklin D. Roosevelt *32nd President of the United States, Democrat, who won a second term in the presidential election of 1936.*

Joseph Schechter *Head of the Schechter Poultry Corporation and a principal figure in* Schechter Poultry Corp. v. United States, *decided by the U.S. Supreme Court.*

F. M. Wood *Attorney for the Schechter family in* Schechter Poultry Corp. v. United States.

Justices who tended to favor New Deal legislation
Louis Brandeis
Benjamin Cardozo
Harlan F. Stone

Justices who tended to oppose New Deal legislation
Pierce Butler
James McReynolds
Owen J. Roberts
George Sutherland
Willis Van Devanter

VOCABULARY

ADJUDICATE
To hear and settle a legal case by judicial procedure; a judge's decision in a law case.

BROAD CONSTRUCTIONIST
A person who favors a loose or flexible interpretation of the words of the U.S. Constitution.

COMMERCE CLAUSE
Article I, Section 8, Clause 3 of the Constitution gives Congress the power to regulate interstate commerce. Many Supreme Court cases have centered on interpreting what constitutes "commerce" and whether the federal government can impose regulations on intrastate commerce.

CONSERVATIVE
A person who, in the context of the New Deal era, tended to oppose sweeping political changes put forward by the presidential administration of Franklin D. Roosevelt.

GUFFEY COAL LAW
A federal statute authored by Senator Joseph Guffey that regulated minimum prices for coal and provided for collective bargaining between coal miners and company owners.

NEW DEAL
The term used to label the program put forward by the administration of President Roosevelt after he took office in 1933.

NATIONAL INDUSTRIAL RECOVERY ACT (NIRA)
A federal law enacted as a centerpiece of the New Deal program, which granted the President authority to approve codes of fair competition for different industries.

NATIONAL RECOVERY ADMINISTRATION (NRA)
A federal agency established by the National Industrial Recovery Act to carry out the terms of the NIRA.

PRICE FIXING
The setting of prices at a certain level, usually by mutual agreement of competitors.

PROGRESSIVE
A person who, in the context of the New Deal era, tended to favor the broad legal and political reforms of President Roosevelt's administration.

STRICT CONSTRUCTIONIST
A person who favors narrow or literal interpretation of the words of the U.S. Constitution.

WRIT OF CERTIORARI
A request from a higher court to a lower court for a record of a case for review.

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List of Components

(17) New York Times Articles

The article dates listed below represent the date *The New York Times* published the story and may differ from the dateline at the beginning of each story, which represents the day the article was filed. Some articles have been excerpted to conserve space.

"Nine Philosophers of Our High Court," April 7, 1935.

"Justices Question NRA Test Points," May 3, 1935.

"NRA Before the Court" (editorial), May 2, 1935.

"The News of the Week in Review," May 26, 1935.

"Schechter Takes Decision Gloomily," May 28, 1935.

"Press Generally Sees Ruling as a Victory for Fundamental Law," May 28, 1935.

"All NRA Enforcement Is Ended by President as Supreme Court Rules Act and Codes Void; Whole of New Deal Program in Confusion," May 28, 1935.

"The News of the Week in Review," June 2, 1935.

"Letters to the Editor of The Times on Leading Topics in the News," June 2, 1935.

"Miners Ask Curbs on Supreme Court," January 30, 1936.

"Court's New Deal Score," May 19, 1936.

"Editorial Views on the Guffey Decision," May 19, 1936.

"High Court Voids Guffey Coal Law as a Violation of States' Rights; Resettlement Loses a Test Case," May 19, 1936.

"Roosevelt Sweeps the Nation; His Electoral Vote Exceeds 500," November 4, 1936.

"The Morning After" (editorial), November 5, 1936.

"Jersey City Tailor, Jailed Under the NRA, Hails Roosevelt Victory, Urges New Law," November 5, 1936.

"National Unity Seen in Election Outcome," November 8, 1936.

(1) New York Times Front Page Poster

"All NRA Enforcement Is Ended by President as Supreme Court Rules Act and Codes Void; Whole of New Deal Program in Confusion," May 28, 1935.

(1) Video Program

Videotapes may not be reproduced and are limited solely and exclusively to single classroom exhibition.

Title: The Supreme Court and the New Deal, 1935-1936.

Running Time: Approximately 15:55.

Contents: The video contains historical footage, still photos, background information and insightful commentary by *New York Times* columnist Anthony Lewis, a two-time Pulitzer Prize-winner for national reporting and coverage of the Supreme Court. His commentary illuminates the legal and political issues involved in key New Deal court cases.

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Key Events

JANUARY-APRIL 1935

Political controversy over President Roosevelt's New Deal programs pits Democrats against Republicans and progressives against conservatives.

MAY 27, 1935

In *Schechter Poultry Corp. v. United States*, the U.S. Supreme Court votes 9-0 to strike down as unconstitutional the National Industrial Recovery Act.

JULY 5, 1935

The National Labor Relations Act is passed by Congress. The Wagner Act (named for its sponsor, Senator Robert F. Wagner of New York) required management to recognize unions and to bargain collectively with them, and prohibited employers from preventing workers from joining unions.

AUGUST 30, 1935

Congress passes the Bituminous Coal Conservation Act. The Guffey Coal Law (named for its sponsor, Senator Joseph Guffey of Pennsylvania) provided for federal regulation of prices for coal and established collective bargaining rights for coal miners.

JANUARY 6, 1936

In *United States v. Butler*, the U.S. Supreme Court votes 6-3 to overturn as unconstitutional the Agricultural Adjustment Act (AAA).

JANUARY 29, 1936

United Mine Workers vote to support New Deal legislation and condemn the Supreme Court's "all-powerful position."

MARCH 18, 1936

In *Carter v. Carter Coal Company*, the U.S. Supreme Court votes 5-4 to declare unconstitutional the Guffey Coal Law.

NOVEMBER 3, 1936

President Franklin D. Roosevelt, Democrat, wins re-election in a landslide victory over Republican opponent Alfred Landon.

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